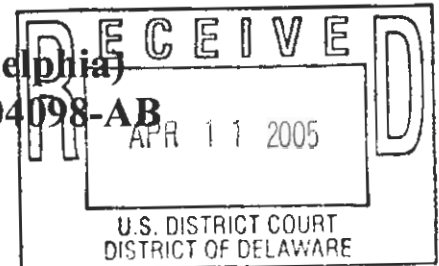


05 - 211

CLOSED, LEAD, STANDARD

**United States District Court
Eastern District of Pennsylvania (Philadelphia)
CIVIL DOCKET FOR CASE #: 2:04-cv-04098-AB
Internal Use Only**



GORBEY v. LONGWILL et al
Assigned to: HONORABLE ANITA B. BRODY
Cause: 28:1332 Diversity-Personal Injury

Date Filed: 08/27/2004
Jury Demand: None
Nature of Suit: 360 P.I.: Other
Jurisdiction: Diversity

Plaintiff

JAMES H. GORBEY, JR.
*ADMINISTRATOR OF THE
ESTATE OF MARISSA ROSE
FISHMAN, DECEASED*

represented by **MATTHEW A. CASEY**
KLINE & SPECTER
1525 LOCUST STREET
19TH FLOOR
PHILADELPHIA, PA 19102
215-772-1000
Fax: 215-772-1005
Email:
matt.casey@klinespecter.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

RICHARD LONGWILL

represented by **DANIEL J. HART**
MARSHALL. DENNEHEY,
WARNER, ET AL
1845 WALNUT ST. 21ST FL.
PHILADELPHIA, PA 19103-4797
215-575-2600
Fax: 215-575-0856
Email: dhart@mdwecg.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

A TRUE COPY, CERTIFIED FROM THE RECORD

DATED: 4/7/05

ATTEST: [Signature]

DEPUTY CLERK, UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

EDWARD C. MINTZER, JR.

RAWLE & HENDERSON LLP
THE WIDENER BUILDING
ONE S. PENN SQUARE
PHILADELPHIA, PA 19107
215-575-4225
Fax: 215-563-2583
Email: emintzer@rawle.com
ATTORNEY TO BE NOTICED

Defendant

BARBARA LONGWILL

represented by **DANIEL J. HART**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

EDWARD C. MINTZER, JR.
(See above for address)
ATTORNEY TO BE NOTICED

Defendant

**AIR BASE CARPET MART,
INC.**
doing business as
AIR BASE DISTRIBUTING, INC.
doing business as
AIR BASE CARPET MART

represented by **EDWARD C. MINTZER, JR.**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

MICHAEL J. HURVITZ
RAWLE & HENDERSON LLP
THE WIDENER BLDG.
ONE S. PENN SQUARE
PHILADELPHIA, PA 19107
215-575-4227
Email: mhurvitz@rawle.com
ATTORNEY TO BE NOTICED

Defendant

**AIR BASE DISTRIBUTING,
INC.1**

represented by **EDWARD C. MINTZER, JR.**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

MICHAEL J. HURVITZ
(See above for address)

ATTORNEY TO BE NOTICED

Defendant

**ASHLAND CONSTRUCTION
COMPANY, INC.**

represented by **MICHAEL ROBERT SMALL**
EISEMAN MYERS & LIEVO
30 SOUTH 17TH STREET
SUITE 1730
PHILADELPHIA, PA 19103
215-563-1255
Email:
michael.small@selective.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

**JOSEPH RIZZO & SONS
CONSTRUCTION**

Defendant

**VINCENT RIZZO
CONSTRUCTION CO., INC.**

represented by **MICHAEL ROBERT SMALL**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant


JOSEPH V. RIZZO

represented by **MICHAEL ROBERT SMALL**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Defendant

VINCENT RIZZO

represented by **MICHAEL ROBERT SMALL**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
08/27/2004	 <u>1</u>	NOTICE OF REMOVAL by AIR BASE CARPET MART, INC., AIR BASE DISTRIBUTING, INC.1 from Philadelphia County, case number 2004-003776, Verification and Certificate of Service

		(Filing fee \$ 150 receipt number 908340) (Attachments: # <u>1</u> COMPLAINT# <u>2</u> FOURTH AMENDED COMPLAINT# <u>3</u> AFFIDAVIT OF DANIEL HART, ESQ.# <u>4</u> CASE MANAGEMENT FORM)(ss,) (Entered: 08/30/2004)
08/27/2004		Standard Case Management Track (ss,) (Entered: 08/30/2004)
09/07/2004	<u>2</u>	ANSWER to (Fourth Amended) Complaint by AIR BASE CARPET MART, INC., AIR BASE DISTRIBUTING, INC.1, BARBARA LONGWILL, RICHARD LONGWILL, Affirmative Defenses, Certificate of Service.(MINTZER, EDWARD) Modified on 9/9/2004 (md) (Entered: 09/07/2004)
09/07/2004	<u>3</u>	MOTION to Transfer Venue filed by AIR BASE CARPET MART, INC., AIR BASE DISTRIBUTING, INC.1, Memorandum, Affidavit, Certificate of Service. (Attachments: # <u>1</u> Exhibit Fourth Amended Complaint# <u>2</u> Exhibit Affidavit of Rochelle Fishman# <u>3</u> Exhibit Notice of Removal# <u>4</u> Exhibit Incident Report# <u>5</u> Exhibit Affidavit of Arnold Frey# <u>6</u> Exhibit Exhibit F - Ashland document# <u>7</u> Affidavit Affidavit of Delia Clark, Esquire)(MINTZER, EDWARD) Modified on 9/9/2004 (md) (Entered: 09/07/2004)
09/07/2004		***Issue Joined (md,) (Entered: 09/09/2004)
09/14/2004	<u>4</u>	Praeipce to Substitute Corrected Page by AIR BASE CARPET MART, INC., AIR BASE DISTRIBUTING, INC.1, BARBARA LONGWILL, RICHARD LONGWILL, Certificate of Service. (Corrected Page Attached) (MINTZER, EDWARD) Modified on 9/16/2004 (md) (Entered: 09/14/2004)
09/16/2004	<u>5</u>	NOTICE of RULE 16 CONFERENCE IS SET FOR 10/5/2004 04:30 PM IN JUDGE'S CHAMBERS BEFORE HONORABLE ANITA B. BRODY. COPIES ENTERED AND SENT VIA ECF AND U.S. MAIL.(mo,) (Entered: 09/16/2004)
09/16/2004	<u>6</u>	ANSWER to Complaint together with Fourth Amended by BARBARA LONGWILL, RICHARD LONGWILL, Certificate of Service. (HART, DANIEL) Modified on 9/17/2004 (np). (Entered: 09/16/2004)
09/24/2004	<u>7</u>	Reply to motion to transfer venue of defts' Air Base Carpet Mart, Inc. and Air Base Distributing, Inc., filed by plff JAMES H. GORBEY JR., Brief, Certificate of Service. (gn,) (Entered: 09/27/2004)

09/28/2004	<u>8</u>	ORDER THAT THE RULE 16 CONFERENCE SCHEDULED FOR TUESDAY, OCTOBER 5,2004 AT 4:30 P.M. IS CANCELLED AND RESCHEDULED FOR MONDAY OCTOBER 25,2004 AT 4:30 P.M. THE CONFERENCE WILL BE HELD IN CHAMBERS, ROOM 7613, ON THE 7TH FLOOR.. SIGNED BY JUDGE ANITA B. BRODY ON 09/28/04. 09/28/04 ENTERED AND COPIES MAILED AND FAXED.(mo,) (Entered: 09/28/2004)
09/28/2004	<u>9</u>	ORDER THAT THE RULE 16 CONFERENCE SCHEDULED FOR 10/5/04 AT 4:30PM IS CANCELED AND RESCHEDULED FOR 10/25/04 AT 4:30PM. THE CONFERENCE WILL BE HELD IN ROOM 7613. (SIGNED BY JUDGE ANITA B. BRODY ON 9/27/04.) 9/29/04 ENTERED AND COPIES FAXED BY CHAMBERS.(gn,) (DUPLICATE FILING) (Entered: 09/29/2004)
09/28/2004		***Deadlines terminated. (gn,) (Entered: 09/29/2004)
10/07/2004	<u>10</u>	Original Record together with certified copy of docket entries received from Court of Common Pleas of Philadelphia County. (gn,) (Entered: 10/07/2004)
10/20/2004	<u>11</u>	Attachment A by defts' AIR BASE CARPET MART, INC., AIR BASE DISTRIBUTING, INC.1, BARBARA LONGWILL, RICHARD LONGWILL. (gn,) Additional attachment(s) added on 10/25/2004 (gn,). (Entered: 10/21/2004)
10/29/2004	<u>12</u>	Minute Entry for proceedings held before Judge ANITA B. BRODY : Rule 16 Conference held on 10/25/04 (gn,) (Entered: 11/01/2004)
10/29/2004		***Deadlines terminated. (gn,) (Entered: 11/01/2004)
11/03/2004	<u>13</u>	ORDER that 1. THE PARTIES SHALL CONDUCT WRITTEN AND/OR DEPOSITION DISCOVERY RELATED TO IN PERSONAM JURISDICTION OF THE INDIVIDUAL OR CORPORATE DEFENDANTS AND/OR VENUE WITHOUT WAIVING ANY CLAIM OR DEFENSE THAT HAS BEEN OR COULD BE ASSERTED IN CONNECTION WITH THE CAUSES OF ACTION ASSERTED IN PLAINTIFF'S COMPLAINT. THIS ORDER DOES NOT APPLY TO OR INCLUDE SUBSTANTIVE DISCOVERY. 2. SUCH DISCOVERY AS DESCRIBED IN PARAGRAPH 1 ABOVE SHALL BE COMPLETED BY JANUARY 7, 2005.

		THEREAFTER, ANY MOTION SOUGHT TO BE FILED BY ANY PARTY IN CONNECTION THEREWITH WILL BE FILED WITH THE COURT FOR TIMELY DISPOSITION. ALL SUCH MOTIONS TO BE FILED WITHIN 30 DAYS OF THE CONCLUSION OF THE JURISDICTON DISCOVERY.SIGNED BY JUDGE ANITA B. BRODY ON 11/1/2004. 11/1/2004 ENTERED AND COPIES VIA ECF AND U.S. MAIL.(mo,) (Entered: 11/03/2004)
11/23/2004	<u>14</u>	Plaintiff's Self-Executing Disclosures Pursant to FRCP 26a with Certificate of Service by JAMES H. GORBEY, JR.(wgc,) Modified on 11/23/2004 (wgc,). (Entered: 11/23/2004)
12/03/2004	<u>15</u>	ORDER THAT THE ACTIONS 04-4098 AND 04-4118 SHALL BE CONSOLIDATED UNDER 04-4098. THE CLERK'S OFFICE SHALL AMEND THE CAPTION OF 04-4098 TO INCLUDE ALL PARTIES. THE CLERK'S OFFICE SHALL PLACE ALL PAPERS IN 04-4118 IN THE COURT FILE OF 04-4098 AND CLOSE OUT 04-4118. (SIGNED BY JUDGE ANITA B. BRODY ON 12/1/04.) 12/5/04 ENTERED AND COPIES E-MAILED.(gn,) (Entered: 12/06/2004)
12/03/2004		***Set/Clear Flags Set Flag LEAD (gn,) (Entered: 12/06/2004)
12/03/2004		***Party ASHLAND CONSTRUCTION COMPANY, INC. rep by MICHAEL ROBERT SMALL, and JOSEPH RIZZO & SONS CONSTRUCTION, and VINCENT RIZZO CONSTRUCTION CO., INC. rep by MICHAEL ROBERT SMALL, and JOSEPH V. RIZZO rep by MICHAEL ROBERT SMALL, and VINCENT RIZZO rep by MICHAEL ROBERT SMALL added. (gn,) (Entered: 12/06/2004)
12/03/2004		***Party JOSEPH RIZZO & SONS CONSTRUCTION added. (gn,) (Entered: 12/06/2004)
12/03/2004	<u>1</u>	Papers 1, 2, 5, 6, and 7 transferred to 04-4098 pursuant to order dated 12/3/04. Papers #3 and 4 were missing from the file. (gn,) (Entered: 12/06/2004)
12/03/2004	<u>16</u>	AMENDED SCHEDULING ORDER THE PARTIES SHALL CONDUCT WRITTEN AND/OR DEPOSITION DISCOVERY RELATED TO IN PERSONAM JURISDICTION OF THE INDIVIDUAL OR CORPORATE DEFTS AND/OR VENUE WITHOUT WAIVING ANY CLAIM OR DEFENSE THAT HAS BEEN OR COULD BE ASSERTED IN CONNECTION

		WITH THE CASUES OF ACTION ASSERTED IN PLFF'S COMPLAINT. SUCH DISCOVERY AS DESCRIBED IN PARA 1 ABOVE SHALL BE COMPLETED BY 1/7/05. (SIGNED BY JUDGE ANITA B. BRODY ON 12/1/04.) 12/5/04 ENTERED AND COPIES E-MAILED AND MAILED TO PRO SE.(gn,) Modified on 12/6/2004 (gn,). (Entered: 12/06/2004)
12/03/2004		***Party ASHLAND CONSTRUCTION COMPANY, INC. rep by MICHAEL ROBERT SMALL, and JOSEPH RIZZO & SONS CONSTRUCTION, and VINCENT RIZZO CONSTRUCTION CO., INC. rep by MICHAEL ROBERT SMALL, and JOSEPH V. RIZZO rep by MICHAEL ROBERT SMALL, and VINCENT RIZZO rep by MICHAEL ROBERT SMALL added. (gn,) (Entered: 02/14/2005)
01/07/2005	<u>17</u>	STIPULATION <i>AND ORDER GOVERNING THE PROTECTION AND EXCHANGE OF CONFIDENTIAL INFORMATION</i> by AIR BASE DISTRIBUTING, INC.1, AIR BASE CARPET MART, INC.. (MINTZER, EDWARD) (FILED IN ERROR BY ATTORNEY; COPY FORWARDED TO JUDGE FOR APPROVAL) Modified on 1/10/2005 (np). (Entered: 01/07/2005)
02/07/2005	<u>18</u>	MOTION to Dismiss or in the Alternative Motion to Transfer Venue filed by RICHARD LONGWILL, BARBARA LONGWILL, Memorandum, Certificate of Service. (Attachments: # <u>1</u> Answer # <u>2</u> Attachment)(HART, DANIEL) Modified on 2/8/2005 (fh,). (Entered: 02/07/2005)
02/07/2005	<u>19</u>	Preliminary Statement AIR BASE DISTRIBUTING, INC.1, AIR BASE CARPET MART, INC., Memorandum and Certificate of Service. (Attachments: # <u>1</u> Exhibit A# <u>2</u> Exhibit B# <u>3</u> Exhibit C# <u>4</u> Exhibit D# <u>5</u> Exhibit E# <u>6</u> Exhibit F# <u>7</u> Exhibit G)(HURVITZ, MICHAEL) Modified on 2/8/2005 (fh,). (Entered: 02/07/2005)
02/07/2005		***Motions terminated: <u>19</u> MOTION to Dismiss for Lack of Jurisdiction filed by AIR BASE CARPET MART, INC., AIR BASE DISTRIBUTING, INC.1,. (Filed incorrectly by atty.) (fh,) (Entered: 02/08/2005)
02/08/2005	<u>20</u>	CERTIFICATE OF SERVICE by AIR BASE DISTRIBUTING, INC.1, AIR BASE CARPET MART, INC. re <u>19</u> MOTION to Dismiss for Lack of Jurisdiction <i>Amended</i> (HURVITZ, MICHAEL) (Entered: 02/08/2005)
02/10/2005	<u>21</u>	MOTION to Dismiss <i>OR IN THE ALTERNATIVE</i> TO

		TRANSFER VENUE filed by ASHLAND CONSTRUCTION COMPANY, INC. (SMALL, MICHAEL) Modified on 2/11/2005 (np). (Entered: 02/10/2005)
02/11/2005	22	MOTION TO DISMISS, OR IN THE ALTERNATIVE MOTION TO TRANSFER VENUE OF DEFENDANTS ASHLAND CONSTRUCTION COMPANY, INC., VINCENT RIZZO CONSTRUCTION CO., INC., JOSEPH V. RIZZO, VINCENT RIZZO..(wgc,)Duplicate entry Modified on 2/14/2005 (wgc,). (Entered: 02/11/2005)
02/11/2005		***Documents terminated: [22] MOTION to Dismiss MOTION to Transfer filed by VINCENT RIZZO CONSTRUCTION CO., INC., JOSEPH V. RIZZO,, VINCENT RIZZO,, ASHLAND CONSTRUCTION COMPANY, INC.,. (wgc,) (Entered: 02/14/2005)
03/02/2005	23	STIPULATION <i>for transfer of venue to United States District Court for the District of Delaware</i> by ASHLAND CONSTRUCTION COMPANY, INC.. (SMALL, MICHAEL) (FILED IN ERROR BY ATTORNEY; COPY FORWARDED TO JUDGE FOR APPROVAL) Modified on 3/4/2005 (np). (Entered: 03/02/2005)
03/04/2005		***Deadlines terminated., ***Documents terminated: Remark, <u>16</u> Order,,, Set Scheduling Order Deadlines,,, <u>21</u> MOTION to Dismiss <i>or in the</i> filed by ASHLAND CONSTRUCTION COMPANY, INC.,, <u>23</u> Stipulation, filed by ASHLAND CONSTRUCTION COMPANY, INC.,, [24] Order, <u>2</u> Answer to Complaint filed by RICHARD LONGWILL,, BARBARA LONGWILL,, AIR BASE CARPET MART, INC.,, AIR BASE DISTRIBUTING, INC.1,, <u>9</u> Order,, Set Scheduling Order Deadlines,, <u>3</u> MOTION to Transfer <i>Venue</i> filed by AIR BASE CARPET MART, INC.,, AIR BASE DISTRIBUTING, INC.1,, [10] State Court Record, <u>4</u> Praecipe/Request filed by RICHARD LONGWILL,, BARBARA LONGWILL,, AIR BASE CARPET MART, INC.,, AIR BASE DISTRIBUTING, INC.1,, <u>11</u> Exhibit filed by RICHARD LONGWILL,, BARBARA LONGWILL,, AIR BASE CARPET MART, INC.,, AIR BASE DISTRIBUTING, INC.1,, <u>17</u> Stipulation, filed by AIR BASE CARPET MART, INC.,, AIR BASE DISTRIBUTING, INC.1,, [12] Pretrial Conference - Initial, <u>18</u> MOTION to Dismiss for Lack of Jurisdiction filed by RICHARD LONGWILL,, BARBARA LONGWILL,, <u>20</u> Certificate of Service filed by AIR

		BASE CARPET MART, INC., AIR BASE DISTRIBUTING, INC.1,, <u>5</u> Notice of Hearing, <u>6</u> Answer to Complaint filed by RICHARD LONGWILL,, BARBARA LONGWILL,, <u>1</u> Notice of Removal, filed by AIR BASE CARPET MART, INC., AIR BASE DISTRIBUTING, INC.1,, <u>7</u> Response to Motion filed by JAMES H. GORBEY, JR., <u>13</u> Order,,,, <u>8</u> Order,, <u>14</u> Disclosure filed by JAMES H. GORBEY, JR., <u>15</u> Order,. (gn,) (Entered: 03/08/2005)
03/07/2005	24	ORDER THAT THE CLERK OF COURT IS DIRECTED TO TRANSFER THIS FILE TO THE CLERK OF COURT OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE. (SIGNED BY JUDGE ANITA B. BRODY ON 3/4/05.) 3/8/05 ENTERED AND COPIES MAILED AND FAXED.(gn,) (Entered: 03/08/2005)
03/07/2005		***Civil Case Terminated. (kv,) (Entered: 03/09/2005)
04/07/2005		Original record together with certified copy of docket entries forwarded to District of Delaware. (gn,) (Entered: 04/08/2005)